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APPLICATION OF

APPALACHIAN POWER COMPANY

**For Certificates of Public Convenience
And Necessity Authorizing Transmission
Lines in the Counties of Bland, Botetourt,
Craig, Giles, Montgomery, Roanoke and
Tazewell: Wyoming-Cloverdale 765 kV
Transmission Line and Cloverdale 500 kV
Bus Extension**

CASE NO. PUE970766

HEARING EXAMINER'S RULING

February 15, 2000

On January 10, 2000, the Bland County Board of Supervisors; Wythe County Board of Supervisors; Alliance for the Preservation and Protection of Appalachian Land, Inc.; and the Citizens United to Protect Tazewell County, Inc. (collectively "Protestants"), by counsel, filed a Motion to Change Venue. In their Motion, Protestants request that the venue of the evidentiary hearing scheduled to commence on May 1, 2000, in Richmond be changed to the auditorium of the Maranatha Church of God on West Lee Highway, Wytheville, Virginia. In support of their Motion, Protestants state that conducting the hearing in Richmond will preclude attendance by most interested citizens due to the distance from Southwest Virginia and the time and the expense of travel involved. Protestants further state that the proposed hearing site is in a location convenient to local citizens, and has equipment and facilities satisfactory for the hearing.

On January 11, 2000, a Ruling was issued directing the Company, Staff, and all other parties to file any responses to the Motion.

On January 12, 2000, the Tazewell County Board of Supervisors filed a Motion in Support of Protestants' Motion for Change of Venue.

On January 20, 2000, Protestants filed an Amendment to Motion to Change Venue ("Amendment"). In the Amendment, Protestants state:

- (1) The Board of Elders of the Maranatha Church of God has rescinded permission to use the church's auditorium for the hearing.
- (2) The Wythe County Board of Supervisors has voted unanimously to delay moving its General District Court into its new courthouse to allow the Commission to conduct the evidentiary hearing for the proposed transmission line in the new court facility.

(3) The new court facility has the equipment, seating capacity, and conference rooms necessary to conduct the evidentiary hearing in this matter.

In conclusion, Protestants renew their Motion for Change of Venue as amended and move that the evidentiary hearing in this matter be held in the Wythe County court facility.

On February 1, 2000, Appalachian Power Company, d/b/a American Electric Power ("AEP" or "Company") filed a Response in opposition to Protestants' Motion. In its Response, the Company states that the purpose of the evidentiary hearing is to afford an appropriate forum for parties to the proceeding and their counsel to present evidence and undertake cross-examination of witnesses. The Company notes that the public has already had extensive opportunity to participate in this proceeding through nine local hearings in the counties affected by the proposed transmission line. The Company points out that the Wythe County court facility is still under construction, with an anticipated completion date less than three weeks prior to the scheduled start of the evidentiary hearing on May 1, 2000. The Company maintains that the evidentiary hearing will be lengthy and complex, with voluminous records and numerous exhibits. The Company argues that the logistical problems involved with transporting the necessary documents and travel arrangements for witnesses are sufficient reason to deny the Motion for Change of Venue.

On February 10, 2000, Protestants filed a Reply to the Company's Response. In the Reply, Protestants dispute the Company's characterization of the evidentiary hearing becoming a "mass public meeting" if held in Wytheville. Protestants point out that the potential impact of this transmission line will fall on Southwest Virginia, therefore the public who would have to live with these impacts should be given primary consideration. Although the Wythe County District Court building is still under construction, Protestants emphasize that completion is scheduled for March 30, 2000. Courtroom seating will be delivered in early April and will be installed by April 15. (Reply at 3). Finally, regarding the webcast, Protestants maintain that most Southwest Virginia homes do not have the sophisticated electronics found in other parts of the state. Further, Protestants argue it will be difficult for residents who are unfamiliar with Commission proceedings to understand events based solely on the audio portion of the proceedings. Protestants renew their request for a change of venue for the evidentiary hearing to Southwest Virginia.

I find Protestants' Motion for Change of Venue should be **denied**. Section 12.1-5 of the Code of Virginia provides the Commission may hold public sessions elsewhere in the Commonwealth if the public necessity or the convenience of the parties require. For purposes of the evidentiary hearing, priority must be given to the logistical concerns of the parties and the witnesses. Airport facilities and travel schedules of the witnesses must be taken into consideration. The evidentiary hearing is expected to extend for as long as two weeks. The overall logistical concerns for the people necessary for a fair hearing to all parties must take precedence in this instance.

Moreover, the Wythe County courtroom facility is still under construction. Seating will not be installed until two weeks prior to the start of the evidentiary hearing. As noted in

prior Rulings, this proceeding has been delayed numerous times. The possibility of further delay resulting from construction schedules must be avoided.

As the Company points out, extensive public hearings have been held in the localities affected by the proposed transmission line. Further, the Commission has taken the necessary steps to have a live audio broadcast of the proceedings over the Internet. A recording of each day's proceedings will also be made available on the Internet for citizens to hear at their convenience. For citizens who do not have Internet access at home, most libraries and community colleges in Southwest Virginia provide public access to the Internet. Accordingly,

IT IS DIRECTED:

(1) That the Protestants' Motion to Change Venue, as amended, is hereby **denied**;
and

(2) That the evidentiary hearing shall commence as scheduled at 10:00 am on May 1, 2000, in the Commission's courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia.

Howard P. Anderson, Jr.
Hearing Examiner